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Memorandum of Law

Letter Estate - Jurisdiction and Control

1. Title to the lands in question is vested in the United States by two deeds--a deed of gift dated 6 August 1936, and a deed of purchase dated 16 October 1940.

2. Control (i.e., exercise of whatever title or jurisdiction exists, on behalf of the United States) of the two parcels acquired under 1936 deed is vested in the Department of the Interior (National Park Service) subject to certain authorities conferred on the WDC. Control over the three parcels conveyed in 1940 is exercised by the Department of Commerce (Bureau of Public Roads).

3. The statutory authority upon which the United States might base a claim to jurisdiction over any of this land is as follows:

(a) A Virginia statute of 28 March 1936 (1950 Code, Sec. 7-21) provides for limited concurrent jurisdiction by the United States over lands owned or acquired by it within Virginia for "any proper purpose". The limited jurisdiction ceded to the United States covers the regulation of traffic, protection of the lands and property thereon, and the operation and administration of the same for the purposes for which acquired; Virginia specifically reserves the right to tax the sale of motor fuels and lubricants, to tax, license, regulate or prohibit the sale of intoxicating liquors, to tax property and buildings not belonging to the United States, and to require licenses and license taxes from businesses conducted on such lands; Virginia further reserves "exclusive governmental, judicial, executive and legislative powers and jurisdiction in all civil and criminal matters."

(b) A Virginia statute of 1 April 1940 (1950 Code, Sec. 7-24) provides that the degree of concurrent jurisdiction may be increased by agreement between Virginia authorities and the agency head having control over such land.

(c) A Federal statute dated 1 February 1940 (R.S. 355, 40 USC 255) provides that a formal acceptance by an agency head of concurrent jurisdiction offered by a State is necessary before the United States will actually have such jurisdiction.

4. The present jurisdictional status of the five parcels, then, is as follows:

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(a) The two parcels conveyed in 1936 are subject to the concurrent jurisdiction of Virginia and the United States because they were acquired subsequent to the effective date of the Virginia statute granting concurrent jurisdiction and prior to the effective date of the Federal statute requiring formal acceptance to make such cessions effective.

(b) The three parcels acquired under the 1940 deed are subject solely to the jurisdiction of Virginia, unless a formal acceptance of concurrent jurisdiction on behalf of the United States has been made. The General Counsel of the NCPC and the Field Solicitor of the Office of National Capital Parks have advised that to the best of their knowledge there has been no such acceptance. It would be desirable to check this more fully with the Department of Commerce and the Attorney General.

(c) There does not appear to have been any action taken to increase by agreement the degree of concurrent jurisdiction exercised by the United States over any of these parcels.

5. Parcel 1 of the lands acquired in 1936 is the strip along the Potomac upon which the parkway is intended to be constructed. Parcel 2 is the right-of-way connecting this strip with the Leesburg Road and passing adjacent to the site considered by CIA for its building. Special legislation, both Virginia and Federal, pertains to the George Washington Parkway. This legislation clearly applies to Parcel 1, but the cession of Parcel 2 to this Agency may well remove it to the purview of the more general legislation cited above.

6. The special legislation referred to and its effect is as follows:

(a) The Act of 23 May 1928 (45 Stat. 721) authorizes a memorial highway to connect Mt. Vernon, Virginia, with the Arlington Memorial Bridge and provides that after construction of the highway, "the Secretary of Agriculture shall have control over the vehicular and pedestrian movement on and over the highway constructed hereunder and may issue rules and regulations to govern such traffic and all uses of said highway, including limitations on the size, kind, weight and speed of vehicles: *Provided*, that nothing herein shall be so construed as to conflict or interfere with the concurrent jurisdiction of the State of Virginia reserved by the laws of said State now in force over property acquired therein by the United States, or with Chapter 494 of the Acts of the General Assembly of Virginia, approved March 25, 1926, authorizing cooperation

Approved For Release 2007/02/07 : CIA-RDP58-00453R000300120057-8

Approved For Release 2007/02/07 : CIA-RDP58-00453R000300120057-8

...ment of the State and interstate survivial ... the construction of the highway herein provided for."

(b) Subsequently, in the Act of 29 May 1930 (46 Stat. 482) Congress authorized the establishment of the "George Washington Memorial Parkway along the Potomac from Mt. Vernon, Virginia, to Fort Washington to the Great Falls." That Act provides, inter alia, "the title to the lands acquired hereunder shall vest in the United States, and said lands, including the Mt. Vernon Memorial Highway, authorized by the Act approved May 23, 1928, upon its completion, shall be maintained and controlled by the Director of Public Buildings and Public Parks of the National Capital, who shall exercise all the authority, power, and duties with respect to lands acquired under this section as are conferred upon him within the District of Columbia by the Act approved February 26, 1925; . . . The National Capital Park and Planning Commission is authorized to convey such lands belonging to the United States as may be necessary for the development of said parkway and to accept the donation to the United States of any other lands by it deemed desirable for inclusion in said parkway."

(c) Executive Order No. 6166, 10 June 1933, abolished the Office of Public Buildings and Public Parks of the National Capital and transferred its functions to the National Park Service of the Department of the Interior (the Office referred to is not the same as the Public Buildings Branch, Procurement Division, Treasury Department, which was transferred to the Federal Works Administration by Reorganization Plan No. 1 of 1939 and subsequently became the Public Buildings Service of General Services Administration).

(d) The Virginia statute involved is the Act of 25 March 1926 (ch. 194) which authorizes the United States to acquire land within Virginia, in fee simple or otherwise, for the construction of the Mt. Vernon or other highways by purchase or condemnation, and authorizes financial contributions thereto by cities, towns and counties of the State; it also provides that concurrent jurisdiction over such lands will be ceded in accordance with applicable laws of Virginia.

7. In conclusion, although further checking is desirable, it would appear that the United States has no jurisdiction at all over Parcel 2 of the 1940 deed, that portion considered as a site for the CIA building, but that a simple written acceptance by the head of the agency having control of the land at any given time would be sufficient to acquire limited concurrent jurisdiction, and that the same agency could with the agreement of the Virginia authorities acquire additional jurisdiction.

Approved For Release 2007/02/07 : CIA-RDP58-00453R000300120057-8

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Brief History of the Bureau of Public Roads

a. Bureau of Public Roads (Reference: U. S. Government Organization Manual, 1935 - 1936, and various statutes). A predecessor organization was created by the Secretary of Agriculture in 1893 and the organization was called the Bureau of Public Roads on 1 July 1918.

b. Reorganization Plan No. 1 of 1939, in sec. 301, established the Public Roads Administration under the Federal Works Administrator and transferred thereto the Bureau and its functions.

c. Public Law 152, 81st Cong., the Federal Property and Administrative Services Act of 1949, which created the GSA, provided in sec. 103 that all functions of the Federal Works Agency, including the Public Roads Administration, with its records, property, personnel, obligations and commitments, were to be transferred to the Administrator of General Services and that the Public Roads Administration would thereafter be known as the Bureau of Public Roads. The Act was approved 30 June 1949.

d. Reorganization Plan No. 7 of 1949, approved 20 June 1949, transferred the Public Roads Administration to the Department of Commerce. The message by which the President transmitted this plan to Congress indicates that he wished to establish the Public Roads Administration separately from General Services Administration because its primary function of building highways bears very little relation to the objectives of the GSA.

e. Despite the interesting conflict in dates, then, the Presidential and Congressional intent seem clear and, as a matter of fact, the Bureau of Public Roads is currently maintained under the Department of Commerce, and no one seems to have raised any objection.

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